

**City of Newport Beach - Building Department**

**ADMINISTRATIVE POLICY**

Effective Date	Subject	Policy No.
June 22, 1998 Revised July 13, 2009	Signature and Stamps on Plans & Documents	ADM-302-3.1 ADM 106.3.4(b)

Business and Professions Code (BPC), Section 5536.1(a) requires that "all persons preparing or being in responsible control of plans, specifications, and instruments of service for others shall sign those plans, specifications and instruments of service and all contracts therefore, and if licensed under this chapter shall affix a stamp which complies with subdivision (b) to those plans, specifications and instruments of service, as evidence of the person's responsibility for those documents."

BPC 5536.2 states, "It is the responsibility of the agency that issues the permit to determine that the person who signed and stamped the plans and specifications or who submitted the signed statement required by this section is licensed under this chapter or is otherwise licensed in this state to prepare the plans and specifications.

This section shall not apply to the issuance of permits where the preparation of plans and specifications for the construction, alteration, improvement, or repair of a building or structure is exempt from this chapter, except that the person preparing the plans and specifications for others shall sign the plans and specifications as provided by Section 5536.1".

In accordance with the above section any person preparing a plan for the purpose of obtaining a permit for exempt projects under BPC 5537 shall print his/her name and sign the sheets that he or she has prepared. This requirement shall apply to homeowners, draft persons, designers and licensed contractors.

Since the signature of the licensed professional or preparer authenticates the document, it is required that the signature be handwritten original in ink. The professional stamp may be in ink, electronic or duplicate as long as the professional's signature is a handwritten ink signature as stated above.

This policy does not supersede or change the requirements when a professional must sign and seal plans or instruments of service covered by Policy Number ADM 106.3.4(a).

Attachments: BPC Sections 5536.1 and 5537

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Jay Elbetta, Building Director

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as that term is defined in Section 151 of Title 16 of the California Code of Regulations.

### **§ 5535.3 Corporation Responsible Control**

This chapter does not prevent a corporation from furnishing or supplying by contract architectural services, as long as any architects' professional services are offered and provided under the responsible control of a licensed architect or architects.

### **§ 5536 Practice Without License or Holding Self Out as Architect; Misdemeanor**

- (a) It is a misdemeanor, punishable by a fine of not less than one hundred dollars (\$100) nor more than five thousand dollars (\$5,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment, for any person who is not licensed to practice architecture under this chapter to practice architecture in this state, to use any term confusingly similar to the word architect, to use the stamp of a licensed architect, as provided in Section 5536.1, or to advertise or put out any sign, card, or other device that might indicate to the public that he or she is an architect, that he or she is qualified to engage in the practice of architecture, or that he or she is an architectural designer.
- (b) It is a misdemeanor, punishable as specified in subdivision (a), for any person who is not licensed to practice architecture under this chapter to affix a stamp or seal that bears the legend "State of California" or words or symbols that represent or imply that the person is so licensed by the state to prepare plans, specifications, or instruments of service.
- (c) It is a misdemeanor, punishable as specified in subdivision (a), for any person to advertise or represent that he or she is a "registered building designer" or is registered or otherwise licensed by the state as a building designer.

### **§ 5536.1 Signature and Stamp on Plans and Documents; Unauthorized Practice; Misdemeanor**

- (a) All persons preparing or being in responsible control of plans, specifications, and instruments of service for others shall sign those plans, specifications, and instruments of service and all contracts therefor, and if licensed under this chapter shall affix a stamp, which complies with subdivision (b), to those plans, specifications, and instruments of service, as evidence of the person's responsibility for those documents. Failure of any person to comply with this subdivision is a misdemeanor punishable as provided in Section 5536. This section shall not apply to employees of persons licensed under this chapter while acting within the course of their employment.
- (b) For the purposes of this chapter, any stamp used by any architect licensed under this chapter shall be of a design authorized by the board which shall at a minimum bear the licensee's name, his or her license number, the legend "licensed architect" and the legend "State of California," and which shall provide a means of indicating the renewal date of the license.
- (c) The preparation of plans, specifications, or instruments of service for any building, except the buildings described in Section 5537, by any person who is not licensed to practice architecture in this state, is a misdemeanor punishable as provided in Section 5536.
- (d) The board may adopt regulations necessary for the implementation of this section.

### **§ 5536.2 Statement of Licensure**

Each county or city which requires the issuance of any permit as a condition precedent to the construction, alteration, improvement, or repair of any building or

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structure shall also require as a condition precedent to the issuance of the permit a signed statement that the person who prepared or was in responsible control of the plans and specifications for the construction, alteration, improvement, or repair of the building or structure is licensed under this chapter to prepare the plans and specifications, or is otherwise licensed in this state to prepare the plans and specifications.

The signature and stamp, as provided for in Section 5536.1, on the plans and specifications by the person who prepared or was in responsible control of the plans and specifications shall constitute compliance with this section.

It is the responsibility of the agency that issues the permit to determine that the person who signed and stamped the plans and specifications or who submitted the signed statement required by this section is licensed under this chapter or is otherwise licensed in this state to prepare the plans and specifications.

This section shall not apply to the issuance of permits where the preparation of plans and specifications for the construction, alteration, improvement, or repair of a building or structure is exempt from this chapter, except that the person preparing the plans and specifications for others shall sign the plans and specifications as provided by Section 5536.1.

### **§ 5536.22 Written Contract**

- (a) An architect shall use a written contract when contracting to provide professional services to a client pursuant to this chapter. That written contract shall be executed by the architect and the client, or his or her representative, prior to the architect commencing work, unless the client knowingly states in writing that work may be commenced before the contract is executed. The written contract shall include, but not be limited to, all of the following items:
  - (1) A description of services to be provided by the architect to the client.
  - (2) A description of any basis of compensation applicable to the contract and method of payment agreed upon by both parties.
  - (3) The name, address, and license number of the architect and the name and address of the client.
  - (4) A description of the procedure that the architect and the client will use to accommodate additional services.
  - (5) A description of the procedure to be used by either party to terminate the contract.
- (b) This section shall not apply to any of the following:
  - (1) Professional services rendered by an architect for which the client will not pay compensation.
  - (2) An arrangement as to the basis for compensation and manner of providing professional services implied by the fact that the architect's services are of the same general kind which the architect has previously rendered to and received payment from the same client.
  - (3) If the client knowingly states in writing after full disclosure of this section that a writing which complies with the requirements of this section is not required.
  - (4) Professional services rendered by an architect to a professional engineer registered to practice engineering under Chapter 7 (commencing with Section 6700), or to a land surveyor licensed under Chapter 15 (commencing with Section 8700).

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- (b) As used in this section:
  - (1) "Architect" has the meaning given by Section 5500.
  - (2) "Public safety officer" has the meaning given in Section 3301 of the Government Code.
  - (3) "Public official" means a state or local elected officer.

### **§ 5536.3 Natural Disasters; Damage to Residential Real Property; Release of Copy of Plans**

- (a) In the event of damage to residential real property caused by a natural disaster declared by the Governor, if the damage may be covered by one or more policies of insurance, any architect or other person who has prepared plans used for the construction or remodeling of the residential real property shall release a copy of the plans to the homeowner's insurer or the homeowner, or duly authorized agent of the insurer or the homeowner, upon request and verification that the plans will be used solely for the purpose of verifying the fact and amount of damage for insurance purposes.
- (b) No homeowner or any other person shall use any copy of plans obtained pursuant to subdivision (a) to rebuild all or any part of the residential real property without the prior written consent of the architect or other person who prepared the plans.
- (c) In the event prior written consent is not provided pursuant to subdivision (b), no architect or other person who has prepared plans who releases a copy of plans pursuant to subdivision (a) shall be liable to any person if the plans are subsequently used by the homeowner or any other person to rebuild all or any part of the residential real property.
- (d) The architect or other person may charge a reasonable fee to cover the reproduction costs of providing a copy of the plans.
- (e) As used in this section, "residential real property" means a single family structure, whether or not owner-occupied.

### **§ 5536.5 State of Emergency; Practice Without License or Holding Self Out as Architect; Penalty**

Any person who violates subdivision (a) of Section 5536 in connection with the offer or performance of architectural services for the repair of damage to a residential or nonresidential structure caused by a natural disaster for which a state of emergency is proclaimed by the Governor pursuant to Section 8625 of the Government Code, or for which an emergency or major disaster is declared by the President of the United States, shall be punished by a fine up to ten thousand dollars (\$10,000), or by imprisonment in the state prison for 16 months, or for two or three years, or by both the fine and imprisonment, or by a fine up to one thousand dollars (\$1,000), or by imprisonment in the county jail not exceeding one year, or by both the fine and imprisonment.

### **§ 5537 Exemptions; Dwellings, Garages, Agricultural and Ranch Buildings; Supervision of Licensed Architect or Registered Engineer Required**

- (a) This chapter does not prohibit any person from preparing plans, drawings, or specifications for any of the following:
  - (1) Single-family dwellings of woodframe construction not more than two stories and basement in height.
  - (2) Multiple dwellings containing no more than four dwelling units of woodframe construction not more than two stories and basement in height. However, this paragraph shall not be construed as allowing an unlicensed person to design multiple clusters of up to four dwelling units

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each to form apartment or condominium complexes where the total exceeds four units on any lawfully divided lot.

- (3) Garages or other structures appurtenant to buildings described under subdivision (a), of woodframe construction not more than two stories and basement in height.
- (4) Agricultural and ranch buildings of woodframe construction, unless the building official having jurisdiction deems that an undue risk to the public health, safety, or welfare is involved.
- (b) If any portion of any structure exempted by this section deviates from substantial compliance with conventional framing requirements for woodframe construction found in the most recent edition of Title 24 of the California Code of Regulations or tables of limitation for woodframe construction, as defined by the applicable building code duly adopted by the local jurisdiction or the state, the building official having jurisdiction shall require the preparation of plans, drawings, specifications, or calculations for that portion by, or under the responsible control of, a licensed architect or registered engineer. The documents for that portion shall bear the stamp and signature of the licensee who is responsible for their preparation. Substantial compliance for purposes of this section is not intended to restrict the ability of the building officials to approve plans pursuant to existing law and is only intended to clarify the intent of Chapter 405 of the Statutes of 1985.

### **§ 5537.1 Exemptions; Structural Engineer**

A structural engineer, defined as a registered civil engineer who has been authorized to use the title structural engineer under the provisions of Chapter 7 (commencing with Section 6700), insofar as he or she practices the profession for which he or she is registered, is exempt from the provisions of this chapter, except that a structural engineer may not use the title "architect," unless he or she holds a license as required in this chapter.

### **§ 5537.2 Exemptions; Contractors**

This chapter shall not be construed as authorizing a licensed contractor to perform design services beyond those described in Section 5537 or in Chapter 9 (commencing with Section 7000), unless those services are performed by or under the direct supervision of a person licensed to practice architecture under this chapter, or a professional or civil engineer licensed pursuant to Chapter 7 (commencing with Section 6700) of Division 3, insofar as the professional or civil engineer practices the profession for which he or she is registered under that chapter.

However, this section does not prohibit a licensed contractor from performing any of the services permitted by Chapter 9 (commencing with Section 7000) of Division 3 within the classification for which the license is issued. Those services may include the preparation of shop and field drawings for work which he or she has contracted or offered to perform, and designing systems and facilities which are necessary to the completion of contracting services which he or she has contracted or offered to perform.

However, a licensed contractor may not use the title "architect," unless he or she holds a license as required in this chapter.

### **§ 5537.4 Exemptions; Professional Engineer**

A professional engineer registered to practice engineering under the provisions of Chapter 7 (commencing with Section 6700), insofar as he or she practices the profession for which he or she is registered, is exempt from the provisions of this chapter, except that a professional engineer may not use the title "architect," unless he or she holds a license as required in this chapter.